

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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DONNELL WILLIAMS,	:	Civil Action No.: 516094/2021
	:	
Plaintiff,	:	
	:	NOTICE OF REMOVAL
- against -	:	
	:	
UBER TECHNOLOGIES, INC., UBER USA, LLC and	:	
RAISER-NY, LLC,	:	
	:	
Defendants.	:	
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Defendant-Petitioners Uber Technologies, Inc., Uber USA, LLC, and Rasier-NY, LLC (improperly pled as Raiser-NY, LLC) (“Uber Defendants”), files this notice to remove the foregoing case to the United States District Court for the Eastern District of New York, and respectfully shows this Court:

1. The Uber Defendants are defendants in the civil action brought on June 30, 2021 in the Supreme Court of the State of New York, Kings County. Pursuant to 28 U.S.C. § 1441 and 28 U.S.C. § 1446, Uber removes this action to the United States District Court for the Eastern District of New York, which is the judicial district in which the action is pending.

2. This is a civil action sounding in negligence seeking damages to recover for the alleged personal injuries of plaintiff DONNELL WILLIAMS (hereinafter “Plaintiff”) as a result of a motor vehicle accident at or near the intersection of Herkimer Street and Williams Place in Brooklyn, New York on July 17, 2018.

3. Plaintiff filed a Summons and Verified Complaint in the Kings County Supreme Court of the State of New York on June 30, 2021. Plaintiff named Uber Technologies, Inc., Uber USA, LLC, and Rasier-NY, LLC as defendants. *See* Summons and Verified Complaint annexed hereto

as **Ex. “A”**. The complaint did not specify the amount of damages Plaintiff is seeking, in accordance with C.P.L.R. 3017(c).

4. As set forth below, this action is one in which the District Courts of the United States have original jurisdiction under 28 U.S.C. § 1332 and 28 U.S.C. § 1441. There is (a) complete diversity of citizenship between the plaintiff and defendants and (b) the amount in controversy exceeds \$75,000.

5. The parties in this action have complete diversity of citizenship. At the time that the action was commenced:

- Plaintiff was a resident and domiciliary of the State of New York; and
- Defendants Uber Technologies, Inc., Uber USA, LLC and Rasier-NY, LLC were organized in and by the State of Delaware with their principal place of business in San Francisco, California.

6. Furthermore, based on Plaintiff’s allegations, the amount in controversy in this matter exceeds the jurisdictional minimum of \$75,000.00 required for diversity jurisdiction pursuant to 28 U.S.C. 1332.

7. According to Plaintiff’s Verified Complaint, Plaintiff has suffered “severe and permanent personal injuries” and was “subjected to great physical pain and mental anguish.” *See Ex “A”, ¶ 257; 180.*

8. Where, as here, the amount in controversy is not apparent from the pleadings, the defendant may attach documents outside of the pleadings, including “information relating to the amount in controversy in the record of the State proceeding, or in responses to discovery.” 28 U.S.C. §1446(c)(3)(A).

9. Plaintiff filed a prior lawsuit stemming from the same accident on November 29, 2018 against the driver of the vehicle in which he was riding, *Donnell Williams v. Victor A. Almanzar Cuevas*, Index No: 523979/2018. In that action, Plaintiff provided a Verified Bill of Particulars relating to the subject July 17, 2018 motor vehicle accident and the purported injuries sustained as a result of same. Within the responses, dated January 18, 2019, Plaintiff claims the following damages:

- MRI of the right shoulder on August 27, 2018 diagnosing rotator cuff tear;
- MRI of the cervical spine on September 4, 2018 diagnosing multilevel disc herniation and disc bulging;
- EMG/NVC studies of the upper extremities on September 6, 2018 diagnosing bilateral polyneuropathy;
- MRI of the lumbar spine on September 10, 2018 diagnosing multilevel disc herniation and disc bulging;
- Right shoulder Kenalog Lidocaine ultrasound guided injection on October 4, 2018; and
- Lost wages as a result of inability to work due to injuries relating to subject accident.

See **Ex. “B”**, Plaintiff’s Verified Bill of Particulars in related action, *Williams v. Almanzar Cuevas*, 523979/2018.

10. Additionally, Plaintiff’s Verified Bill of Particulars further alleges that his expenses resulting from the subject accident “have or will exceed \$50,000.00.” See **Ex. “B”**.

11. Furthermore, Plaintiff presented for an Examination Under Oath in the related action on

October 30, 2019. *See* **Ex. “C”**, Plaintiff’s October 30, 2019 Examination Under Oath Transcript. During his testimony, Plaintiff revealed additional treatment and damages purportedly resulting from the subject accident, specifically:

- Physical therapy for right shoulder, neck and back; (p. 95, ln 20-21; p. 100, ln 9-16);
- Right shoulder surgery for rotator cuff tear performed in February 2019; (p. 111, ln 17-21; p. 112, ln 16-18); and
- Durable medical equipment relating to right shoulder; (p. 115, ln 10-22).

12. The Uber Defendants have not yet filed an Answer in the New York State Supreme Court action and so discovery has not commenced.

13. It is therefore apparent based on the Complaint coupled with Plaintiff’s discovery responses in the related action that Plaintiff’s alleged damages exceed the \$75,000 amount required to establish diversity jurisdiction.

14. Moreover, this application is timely. The Uber Defendants were served on July 9, 2021 and August 4, 2021. (See **Ex. “D”**, Affidavit of Service for Uber USA, LLC and Uber Technologies, Inc., and correspondence from Plaintiff’s Counsel confirming service upon Rasier-NY, LLC). This application has been filed within thirty (30) days of receipt by the Uber Defendants of the plaintiff’s Summons and Verified Complaint.

15. Pursuant to 28 U.S.C. § 1446(d), written notice of the filing of this Notice of Removal will be given to counsel for all adverse parties and a copy of this Notice of Removal will be filed with the Clerk of the Supreme Court of the State of New York, County of Kings.

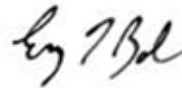
16. In filing this Notice of Removal, the Uber Defendants reserve any and all defenses that may be available to it, including, but not limited, to those under Rule 12(b) of the Federal Rules of Civil Procedure, and does not waive said defenses by the filing of this Notice of Removal.

WHEREFORE, defendant-petitioners Uber Technologies, Inc., Uber USA, LLC and Rasier-NY, LLC respectfully request that the above-entitled action now pending against it in Supreme Court of the State of New York, County of Kings, be hereby removed from the above-referenced State Court to the United States District Court for the Eastern District of New York.

Dated: White Plains, New York
August 9, 2021

Yours, etc.,

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP



By: _____
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On Notice To:

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